

# Notice of Allowability

Application No.

09/762,258

Examiner

Delia M. Ramirez

Applicant(s)

GOUT ET AL.

Art Unit

1652

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/19/2004.
2. ☒ The allowed claim(s) is/are 56,58-66,68-73 and 79-82.
3. ☒ The drawings filed on 29 May 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of the Application***

Claims 56, 58-66, 68-73, 79-82 are pending.

Amendment of claims 56, 79, and addition of claim 82 in a communication filed on 6/22/2004 is acknowledged.

Amendment of claims 56, 82, cancellation of claims 74-78, and amendments to the specification in a communication filed on 7/19/2004 are acknowledged.

### ***Reasons for Allowance***

1. The following is an Examiner's statement of reasons for allowance. Although the prior art discloses nucleic acids encoding human protein kinases which phosphorylate the S6 component of the 40S ribosomal protein, the Examiner has found no teaching or suggestion in the prior art directed to nucleic acids encoding the polypeptide of SEQ ID NO: 2 or the polynucleotide of SEQ ID NO: 1. The closest homolog to the polynucleotide of SEQ ID NO: 1 is taught by Bandman et al. (U.S. Patent No. 6156523; cited in previous Office Actions). While the polynucleotide of Bandman et al. can hybridize under the stringent conditions recited in the claims, Bandman et al. does not teach that the protein encoded by said polynucleotide (HSTK-3; SEQ ID NO: 2 in U.S. Patent No. 6156523), phosphorylates a ribosomal S6 protein. Furthermore, the protein kinase of Bandman et al. (HSTK-3), while comprising amino acids 181-495 of SEQ ID NO: 2 of the instant application, is missing 103 amino acids of the catalytic domain of the kinase of SEQ ID NO: 2 (amino acids 78-345 of SEQ ID NO: 2). Therefore, claims 56, 58-66, 68-73, 79-82, directed to polynucleotides encoding the polypeptide of SEQ ID NO: 2, structural homologs of said polynucleotides which encode protein kinases which phosphorylate S6, host cells, vectors and a method to recombinantly produce polypeptides encoded by said polynucleotides, are allowable over the prior art of record.

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2. Claims 56, 58-66, 68-73, 79-82 are allowed.
3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (571) 272-0938. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

Delia M. Ramirez, Ph.D.  
Patent Examiner  
Art Unit 1652

DR  
July 26, 2004

*Delia M. Ramirez*  
REBECCA E. PELLET  
PRINCIPAL EXAMINER  
GROUP 1600  
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